

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

Bail Appl..No. 6304 of 2007()

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CP.12/2007 of J.M.F.C.-I, THAMARASSERY

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: PETITIONER/ACCUSED

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RAMAKRISHNAN, AGED 42 YEARS,  
S/O. NARAYANAN, KANALATTUPARAMBIL HOUSE,  
ADIVARAM P.O., KOZHIKODE DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT

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STATE OF KERALA, THROUGH THE  
EXCISE RANGE OFFICER, THAMARASSERY EXCISE RANGE,  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

**R.BASANT, J**

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**B.A.No.6304 of 2007**  
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**Dated this the 22<sup>nd</sup> day of October, 2007**

**ORDER**

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. He was allegedly found to be in possession of 2.5 litres of arrack on 27.07.04 at about 6 p.m. Crime was registered. Investigation has already been completed. Final report has been filed. Cognizance has been taken. The case is pending as C.C.No.12 of 2007 before the Magistrate. The petitioner has not appeared before the learned Magistrate. The petitioner apprehends that he will be arrested and detained in custody. He hence prays for anticipatory bail.

2. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the petitioner must surrender before the learned Magistrate and seek regular bail in the ordinary course.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and

expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

4. This application for anticipatory bail is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, expeditiously and in the light of the dictum in **Sukumari v. State of Kerala** [2001(1) K.L.T 22] - on the date of surrender itself.

**(R.BASANT, JUDGE)**

rtr/-